

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-04-138

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF CUNA MUTUAL INSURANCE SOCIETY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of CUNA Mutual Insurance Society (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated October 9, 2003 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a credit life and health insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on October 9, 2003, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2002 to December 31, 2002.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The

Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the final Report. A copy of the final Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Failure to file a complete annual report of all policy forms in use. The Respondent shall provide evidence that it revised its procedures to ensure it files complete annual reports including all policy forms as required by Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue A2 concerns the following violation: Certifying and/or using non-compliant forms. The Respondent shall provide evidence that it revised its procedures to ensure the appropriate forms are in full compliance when submitting the Certificate of Compliance to the Division as required by Colorado insurance law.
11. Issue A3 concerns the following violation: Failing to maintain records required for market conduct purposes. The Respondent shall provide evidence that it will maintain all records required for market conduct purposes to ensure compliance with Colorado insurance law.
12. Issue E1 concerns the following violation: Failing to use fraud warning language that is substantially the same as the fraud warning language required by Colorado insurance law. The Respondent shall provide

evidence that it revised the fraud warning language on all forms requiring such warning to ensure compliance with Colorado insurance law.

13. Issue E2 concerns the following violation: Using policy language that contradicts Colorado insurance law regarding language that is required to be included in group certificates with regard to excess benefits. The Respondent shall provide evidence that it revised the form language required in group certificates with regard to excess benefits to ensure compliance with Colorado insurance law.
14. Issue J1 concerns the following violation: Failing, in some cases, to accurately apply interest to benefits. The Respondent shall provide evidence that it implemented procedures to accurately apply interest to benefits to ensure compliance with Colorado insurance law.
15. Issue J2 concerns the following violation: Failing, in some cases, to forward excess benefits to debtor or his/her estate. The Respondent shall provide evidence that it implemented procedures to forward excess benefits to debtors or their estates to ensure compliance with Colorado insurance law.
16. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of four thousand and no/100 dollars (\$4,000.00). This fine represents a combined fine for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
17. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
18. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All audits shall be performed in accordance with Division guidelines. Unless otherwise specified in this Order, all audit reports must be received within ninety (90) days of the Order, with a summary of the findings, including all monetary payments to covered persons.
19. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in

the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.

20. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated October 9, 2003, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 30th day of January, 2004.

A handwritten signature in black ink, appearing to read "Doug Dean". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Doug Dean
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of January, 2004, I deposited the within
**FINAL AGENCY ORDER NO. O-04-138 IN THE MATTER OF THE MARKET
CONDUCT EXAMINATION OF CUNA MUTUAL INSURANCE SOCIETY**, in the
United States Mail with postage affixed and addressed to:

Mr. Michael B. Kitchen, President
CUNA Mutual Insurance Society
5910 Mineral Point Road
Madison, WI 54205

A handwritten signature in cursive script that reads "Dolores Arrington".

Dolores Arrington, MA, AIRC
Market Conduct Section
Division of Insurance